

| NOTICE OF AMENDMENT OF CARROLL COUNTY

| LOCAL RULES

| WITH PROPOSED AMENDMENTS

| OF

| THE CARROLL CIRCUIT COURT

| AND

| THE SUPERIOR COURT OF CARROLL COUNTY

STATE OF INDIANA )  
 )  
COUNTY OF CARROLL )

IN THE CARROLL SUPERIOR COURT

1999 TERM

### ORDER

Pursuant to ~~inherent authority and Trial Rule 81 of the Indiana Rules of Court,~~  
~~Trial Rule 81 Procedure,~~ the Carroll Circuit Court and the Carroll Superior Court ~~amend~~  
~~the Local Court Rules previously approved to comply~~ hereby publish the following local  
court rules with the numbering system required by Trial Rule 81. ~~This amendment is in~~  
~~form only and not in substance.~~ proposed modifications and additions. Comments may  
be submitted by the bar and public until July 1, 2007. Comments should be sent to the  
Honorable Donald E. Currie, Carroll Circuit Court, P.O. Box 28, Delphi, IN 46923 or by  
e-mail to dcurrie@carrollcounty.in.gov.

— ORDERED THIS 20<sup>TH</sup> DAY OF FEBRUARY 2007. —

Proposals will be adopted, modified, or rejected by July 31, 2007. The rules  
requiring Supreme Court approval will be submitted to the court by August 1, 2007.  
Certain rules may not take effect until approved by the Supreme Court. The effective  
date of the proposed rules will be January 1, 2008.

— Approval by the Indiana Supreme Court is required for the following local rules:

LR08-TR79-18, LR08-AR15-22, LR08-CR13-31, and LR08-AR00-21.

Donald E. Currie, Judge  
Carroll Circuit Court

Jeffrey R. Smith, Judge  
Carroll Superior Court

# LOCAL COURT RULES FOR CARROLL COUNTY, INDIANA

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**LR08-TR81-01**

**SCOPE OF RULES**

Pursuant to Trial Rule 81 of the Indiana Rules of Court, and except as otherwise provided, these rules govern the procedure and practice of the Carroll Circuit Court and the Superior Court of Carroll County, including the general jurisdiction docket, the small claims, criminal, and probate, estate and guardianship dockets.

~~\_\_\_\_\_The rules with no special designation shall govern all suits of a civil nature including small claims, except as otherwise provided in the rules designated "Small Claims" or other Indiana rules governing small claims.\_\_\_\_\_~~

\_\_\_\_\_The rules with no special designation shall apply to all cases filed in the Circuit and Superior Courts of Carroll County, Indiana, but the rules shall not apply to criminal cases, traffic bureau cases, or cases on the Small Claims Docket unless otherwise indicated.\_\_\_\_\_

These local rules shall be read and applied in a manner not inconsistent with the Indiana Rules of Court.

\_\_\_\_\_These Rules shall be effective January 1, 2008, and shall supersede the rules currently applied in the Courts.\_\_\_\_\_

**LR08-TR79-02**

**TRANSFER OF ACTION**

It may, from time to time, be expedient for the Judges of the Carroll Circuit and Superior Courts to transfer cases between those courts. This shall be done with the consent of the two judges involved in the transfers, pursuant to I.C. 33-5-9.5-9. If such transfer is consummated, the time for taking a change of venue from the judge shall be extended for a period of 10 days from the service of notice of such transfer or until such period expires pursuant to T.R. 76 or other applicable law. Change of venue from the county shall not be affected.

**LR08-TR00-03**

**JUDGES SITTING IN EITHER COURT**

It may, from time to time, be expedient for the Judges of the Carroll Circuit and Superior Courts to hear cases pending in the other Court. Pursuant to I.C. 35-5-9.5-10, both judges must agree.

Pursuant to I.C. 33-5-9.5-10, the Judge of the Carroll Circuit Court authorizes the Judge of the Carroll Superior Court to sit as Judge of the Carroll Circuit Court, at any time, in any case.

Pursuant to I.C. 33-5-9.5-10, the Judge of the Carroll Superior Court authorizes the Judge of the Carroll Circuit Court to sit as Judge of the Carroll Superior Court, at any time, in any case.

This authority shall remain in force until further order.-

#### **LR08-TR3.1-04**

##### **LEAVE TO WITHDRAW APPEARANCE AND WITHDRAWAL**

~~————~~ **A. APPEARANCE.** ~~An appearance by counsel or by a party, appearing without an attorney shall be made in writing and filed with either the Clerk or the Court Reporter. It shall contain the appearing person's name, mailing address, office address, and phone number. A copy must be served on other counsel or parties. The clerk shall note the appearance on the Chronological Case Summary.~~

~~————~~ **B. WITHDRAWAL.** ~~All withdrawals of appearance shall be in writing and by leave of Court.~~ **MOTION TO WITHDRAW.** All withdrawals of an appearance must be made in the form of a motion filed with the Court. Permission to withdraw shall be given only after the withdrawing is at the discretion of the Court.

**B. FORM OF MOTION.** Motions for leave to withdraw appearance must indicate the client's address in the Certificate of Service and Proposed Order.

**C. CLIENT NOTIFICATION.** An attorney ~~has given~~ must give his client 10 days written notice of his intention to withdraw ~~and unless~~:

(1) another attorney has filed a copy of the notice with the court. In no event will the court grant a request to withdraw an appearance unless for the same has been filed with the Court at least 10 days prior to trial date, except for good cause. A withdrawal of appearance when accompanied by the appearance of other counsel shall constitute a waiver of this requirement.  
party;

(2) the withdrawing attorney indicates in the motion that he or she has been terminated by the client;

(3) the appearance of the attorney is deemed withdrawn upon conclusion of an action or matter. or,

(4) the attorney was appointed by the Court, and the attorney has advised the Court that he or she cannot accept the appointment due to a conflict or other reason.

Failure to conform to this rule may result in the denial of the motion to withdraw as counsel. The Court, in its discretion, may decide to grant the motion notwithstanding an attorney's failure to comply with this rule.

**D. RULES OF PROFESSIONAL CONDUCT.** All withdrawals of appearance shall comply fully with the provisions of the Rules of Professional Conduct, Rule 1.16.

## **LR08-TR5-05**

### **FILINGS**

~~————A. PLEADINGS.~~ **NUMBER OF COPIES.** All pleadings, motions, and other papers filed with the Court must be filed with the following number of copies:

- (1) an original copy that will be retained by the Court and,
- (2) 1 copy for each of the attorneys, or firms, for the opposing party or parties; or 1 copy for the opposing party if he or she is not represented by counsel.
- (3) The other parties should receive a file-marked copy. If the pleading is filed by mail, the attorney must also send stamped envelopes for the Court to serve the file-marked copy to the other parties. If the pleading is filed in person, the attorney shall serve the other parties the file-marked copy.

**B. APPEARANCE & SIGNATURE REQUIRED FOR FILING.** No pleading, motion, or other paper specified in Rule 5, Indiana Rules of Trial Procedure, will be accepted for filing by the Clerk of the Court unless such pleading, motion, or other paper has been signed in accordance with Rule 11, Indiana Rules of Trial Procedure, (if so required) by an attorney who has filed an appearance, in accordance with Rule 3.1, Indiana Rules of Trial Procedure, on behalf of the filing party, or by a party who has filed a pro se appearance. If it is later discovered that a nonconforming pleading or motion has inadvertently been accepted by the Clerk of the Court, upon this discovery, the pleading, motion, or paper may be stricken from the record at the Court's discretion.

**C. SUPPORTING BRIEFS & MEMORANDA.** If a party desires to file a brief or memoranda in support of a motion, such brief or memoranda must be attached to the motion and simultaneously filed. A supporting brief or memoranda must be attached to all motions filed under Rules 12 and 56 of the Indiana Rules of Trial Procedure.

**D. SPECIAL JUDGE.** When a special judge is selected, a copy of all pending pleadings, motions, and other papers must be mailed or delivered to the office of the special judge with a certificate of forwarding attached and made a part of the original papers. All proposed orders must be forwarded to the special judge as well.

**E. FILING BY MAIL.** When pleadings, motions, or other papers are sent by mail for filing with the Court, the filing attorney or party must include a self-addressed, stamped

envelope for the return of documents to the attorney or party. If there are any deficiencies in the pleading, motion, or paper that precludes filing, the Clerk is not responsible for such deficiencies. The Clerk and the Court are under no obligation to inform the filing attorney or party of any deficiencies or to correct any deficiencies.

**F. CASE NUMBERS.** Except for the initial pleading (Complaint, etc.), no pleadings shall be accepted by the Clerk or the Court unless it has a Case Number placed prominently on the face of the pleading.

**G. FILINGS REQUIRING IMMEDIATE ACTION.** If a motion, pleading, or paper requires immediate action, the party shall file the document with the Clerk of the Court and bring the case-file to the Court so that the judge may take immediate action, if he or she so decides in his or her sound discretion.

**H. FILING NOT REQUIRING IMMEDIATE ACTION.** The entry of appearance and the filing of pleadings or other matters not requiring immediate Court action shall be filed with the Clerk. The Judge may, however, permit papers to be filed with him in which event he shall note thereon the filing date.

~~—— **B. CHRONOLOGICAL CASE SUMMARY ENTRIES.** Written pleadings presented for filing may be accompanied by a proposed entry on the Chronological Case Summary which shall contain the title and number of the case, the date and exact entry to appear on the Chronological Case Summary. The proposed entry shall be signed by counsel.~~

~~—— **C. COPIES TO SPECIAL JUDGES.** When a special judge is selected, copies of all pleadings, motions, or briefs filed shall be mailed or delivered to the private office of the Special Judge with certificate of forwarding same made a part of the original papers.~~

## **LR08-TR00-06**

### **PROPOSED ORDERS**

Prior to entry by the Court of orders granting motions or application or setting hearing dates, the moving party or applicant shall, unless the Court directs otherwise, furnish the Court with proposed orders in the following matters:

- (1) for enlargement of time
- (2) for continuance
- (3) for default judgment
- (4) to compel discovery
- (5) of dismissal
- (6) for appointment of receiver

(7) for appointment of guardian

(8) for restraining order, temporary or permanent injunction

~~(9) for immediate possession of real estate~~

~~(9) for a protective order~~

(10) for immediate possession of ~~personal property~~ real estate

(11) for immediate possession of personal property

~~(12) for findings of fact and conclusions of law~~

~~(12)~~ (13) for foreclosure of a mortgage or other lien

~~(13)~~ (14) setting hearing date

~~(14)~~ (15) and such other orders, judgments, or decrees as the Court may direct.

This rule does not apply to judgments on general verdicts of the jury or upon a decision announced by the Court.

All proposed orders left with the Clerk or Court Reporter when the Judge is not available shall be submitted in sufficient number so that distribution may be made to all affected parties.

#### **LR08-TR73-07**

#### **MOTIONS**

**A. ORAL ARGUMENTS.** The Court shall not hear oral arguments on motions unless required by the Indiana Rules of Procedure, requested by a party and allowed by the Court in its discretion, or at the request of the Court.

**B. BRIEFS AND MEMORANDA REGARDING MOTIONS.** If a party desires to file a brief or memorandum in support of any motion, such brief or memoranda shall accompany or be filed simultaneously with motion, and a copy served on the adverse party unless additional time is granted by the Court. If the adverse party desires to file a brief or memorandum, the adverse party shall file it within 10 days of service of the movant's brief or memorandum.

**C. ENLARGEMENT OF TIME.** An initial written motion for enlargement of time pursuant to Trial Rule 6(B)(1) to respond to a claim shall be automatically allowed for an additional ~~20~~30 days from the original due date without a written order of the Court except in matters denominated in the pleadings as emergency in nature. Any motion filed pursuant to this rule shall state the date when such response is due and the date to which time is enlarged. The action must be filed on or before the original due date or this rule is inapplicable.

**LR08-TR53.5-08**

**CONTINUANCES**

A motion for a continuance, unless made during the hearing of the cause, shall be for cause, in writing and verified. A motion for continuance must be filed as soon after the cause for continuance is discovered by the moving party. The attorney's signature on a request for a continuance is considered a certification that the client has been notified of the request.

**A. INFORMATION IN MOTION.** Motions for a continuance shall contain the following information:

- (1) The date and time of the hearing or trial for which a continuance is being sought;
- (2) A good-faith estimate of the time needed for such hearing or trial when rescheduled;
- (3) The date and time opposing counsel was notified that the party would be seeking a continuance; and
- (4) Whether opposing counsel agrees with or objects to the request.

**B. PROCEDURE FOR AGREED CONTINUANCES.** If the Parties agree to the continuance, the parties shall initiate a conference call with the court reporter for the purpose of reaching an agreed date for the hearing/trial.

**C. PROCEDURE WHEN PARTIES DO NOT AGREE.** If the Parties do not agree on the continuance, the Motion shall so state and the matter will be forwarded to the Court for consideration. If granted by the Court, the party requesting the continuance shall initiate the conference call described in subsection B above.

The foregoing provisions apply regardless of whether the parties are represented by counsel.

If a party is unavailable or uncooperative with arranging the conference call, the Court may proceed to reach an agreed date, and the parties will nevertheless be bound by the date reached during the conference call.

**LR08-TR23-09**

**DISCOVERY**

**A. TIME LIMIT.** In all cases, discovery shall be completed within 6 months after the case is at issue unless otherwise ordered by the Court. For good cause shown, the physical or mental examination of a party, as provided for in Trial Rule 35, Indiana Rules of Procedure, may be ordered at any time prior to trial.

**B. EXTENSION OF TIME.** For good cause shown and prior to the expiration of the time within which discovery is required to be completed, time may be extended for completion of discovery. Motions and stipulations for additional time for completion of discovery must set forth reasons justifying the additional time. Stipulations extending the discovery period must be approved by the Court.

**C. INTERROGATORIES.** Interrogatories shall be tailored specifically to each cause in which they are filed, and shall be consecutively numbered to facilitate response. A party serving written interrogatories pursuant to the Indiana Rules of Procedure shall provide two (2) copies to each party required to answer the same. The interrogatories shall contain, after each interrogatory, a reasonable amount of space for entry of the response or objection. The answering party may attach an addendum to the copies if the space provided is found to be inadequate. In any event, answers or objections to interrogatories shall include the interrogatory being answered or objected to immediately preceding the answer or objection.

**D. DISCOVERY DISPUTES.** The Court shall not hear motions seeking to compel discovery, for sanctions, or seeking protection against discovery, under Trial Rule 26 through Trial Rule 37 unless moving counsel shall first certify in writing, as a part of the motion, that after a personal meeting or telephone conference and sincere attempts to resolve differences, counsel remain unable to agree. The certification shall recite the date, time and place of the meeting and the names of counsel participating. If counsel for a party advises the court in writing that opposing counsel has refused or delayed a meeting to resolve discovery disputes contemplated by this paragraph, the court shall take the appropriate action which may include sanctions against the offending party, attorney, or both.

## **LR08-TR47-10**

### **VOIR DIRE**

**A. EXAMINATION OF PANEL AS A WHOLE BY COURT.** Unless otherwise directed, the entire panel of prospective jurors shall be sworn by the Court and shall remain in the courtroom throughout the entire voir dire examination. The Court will conduct its own voir dire examination of the entire panel, with a view primarily of establishing a basis for challenge for cause.

**B. JURY QUESTIONNAIRES.** Jury questionnaires shall be on file with the Bailiff and copies shall be made available to counsel, but it shall be the responsibility of counsel to obtain such copies from the Bailiff and to review the same before voir dire begins.

**C. CHALLENGES FOR CAUSE.** Any challenge for cause must be made when the cause becomes known.

**D. SUPPLEMENTAL EXAMINATION BY COUNSEL.** Following examination by the Court, counsel shall be permitted to supplement the Court's examination on subjects not expressly covered by the Court or the jury questionnaires. Questions shall be, so far as possible, directed to the entire panel seated in the jury box. The side with the burden of proof shall proceed first with such examination, and the opposing side will then proceed. The initial examination shall be subject to a 20 minute time limit for each side (six person juries) or 30 minute time limit for each side (twelve person juries).

**E. PEREMPTORY CHALLENGES.** After each side has completed its supplementary examination, peremptory challenges must be then made. Such challenges will be made in writing and submitted to the Court. After submission to the Court, the Court will then advise the prospective jurors so challenged.

**F. ADDITIONAL SUPPLEMENTAL EXAMINATION.** Whenever peremptory challenges are made, replacement jurors will then be seated, and each side shall have an opportunity for a supplemental examination as provided by subparagraph D. with peremptory challenges made at the conclusions of such inquiry in writing in the same manner as set forth in subparagraph E. However, the supplemental examination shall be limited to 10 minutes for each side.

**G. PASSING OF JUROR TWICE.** No juror who has been passed twice may be re-examined or peremptorily challenged except upon good cause shown, and the passing of any juror twice shall be deemed a waiver of the right to peremptorily challenge the same unless good cause is shown.

**H. PEREMPTORY CHALLENGES OF SAME JUROR.** A peremptory challenge of the same juror by both sides shall count against the number of challenges for each side.

**I. LIMITATION ON VOIR DIRE BY COUNSEL.** ~~No~~Counsel should limit voir dire examination ~~shall include and~~, unless otherwise directed by the Court, not question prospective jurors on matters: (1) ~~questions~~ previously asked by the Court or counsel and answered; (2) ~~questions based on~~ hypothetical statements of fact which are substantially similar or related to the facts of the case being tried; and (3) ~~questions~~ matters addressed and answered in the jury questionnaires.

**LR08-TR51-11**

**JURY INSTRUCTIONS**

All requests for instructions tendered in accordance with Trial Rule 51 shall be in writing with citations to applicable authority. Reasonably anticipated final instructions shall be exchanged and filed with the court not later than the commencement of trial. Proposed preliminary instructions shall be exchanged and filed not later than three business days prior to the beginning of the trial. The plaintiff shall prepare and exchange with opposing counsel a proposed preliminary instruction on issues not later than three days prior to trial. The court shall in the interest of justice permit the tender of additional instructions during the trial on matters which could not have been reasonably anticipated in advance of trial. **LR08-TR75-12**

**CHANGE OF VENUE**

When a change of venue from the county is granted, all accrued costs and the fee for transfer of venue must be paid to the Clerk by the moving party within 10 days after the order transferring the venue is entered. In the absence of such payment, the ~~move~~moving party shall be deemed to have abandoned the motion, the Clerk shall not perfect the change and the cause shall be restored to the docket.

**LR08-TR16-13**

**SCHEDULING CONFERENCES AND PRE-TRIAL CONFERENCES**

~~A. WHEN. There shall be a pre-trial conference in every civil case scheduled for jury trial. In other cases, upon motion of any party or upon motion of the Court, a pre-trial conference may be held.~~

**Scheduling Conference Meeting**

~~——— B. CERTIFICATE OF READINESS. Any party may request that a pre-trial conference be held or that the cause be set for trial if no pre-trial conference is required by filing a Certificate of Readiness certifying to the Court that the cause is at issue; that discovery is completed or that discovery will be completed by the time of the pretrial conference; that the cause is ready to be assigned for pretrial conference or that a pretrial conference should be waived and the matter assigned for trial. If any party should oppose any matter contained in the Certificate of Readiness, he shall, within 10 days following receipt of a copy of the Certificate of Readiness, file with the court, with service to all counsel of record, his verified objections, citing in particular why the cause is not ready for pretrial conference and trial. The court may summarily rule on any verified objections or upon written request set the matter for hearing. If no objections are filed within the time prescribed or allowed, the court will set the cause for~~

~~pretrial conference. Following a pretrial conference and entry of a pretrial order in a cause, if required, the cause shall be placed on the Court's calendar for trial.~~

~~———— C. **PRE-PRETRIAL CONFERENCE.** At least 10 days prior to the date set for pretrial conference, the attorneys for all parties shall meet and confer for the purposes set forth in Trial Rule 16(C).~~

~~———— D. **PRE-TRIAL ORDER.** Following the pre-trial conference, a pre-trial order shall be prepared, signed and filed as directed by the Court at the pre-trial conference. When signed by the Court and entered of record, the pre-trial order shall control the course of trial, and the pleadings will be deemed merged therein.~~

Upon the closing of the issues in civil cases, the Court may order or the parties may request a Scheduling Conference. Each party shall be represented at this conference by an attorney familiar with the case, who shall be prepared to discuss and enter into stipulations concerning:

- (1) the exchange of lists of witnesses known to have knowledge of the facts supporting the pleadings. The parties thereafter shall be under a continuing obligation to advise opposing parties of other witnesses as they become known;
- (2) the exchange of all documents, and any other evidence reasonably available, contemplated for use in support of the pleadings;
- (3) a discovery schedule;
- (4) the necessity for additional conferences in complex litigation; and
- (5) the necessity for amendments to the pleadings and the filing or hearing of dispositive motions. Absent agreement, the court shall schedule the filing, briefing and hearing thereof.

At the conclusion of the Scheduling Conference, the court shall enter an order setting forth:

- (1) a time limit for completion of discovery;
- (2) a time limit for joinder of additional parties and amendment of pleadings;
- (3) a time limit for filing all pre-trial dispositive motions;
- (4) the scheduling of a pre-trial conference; and
- (5) any other matters which the parties or the court have seen fit to address.

### **B. Pre-trial Conference**

The normal Pre-Trial requirements are set forth in Trial Rule 16 of the Indiana Rules of Civil Procedure. Unless otherwise ordered by the court, the parties shall comply with the procedure set forth in Rule 16.

### **C. Telephone Conferences.**

In order to expedite the Court's business, and in conjunction with Trial Rule 73, the Court encourages the use of telephone conferencing for the conducting of scheduling conference and pre-trial conferences. Telephone conferences for conducting pre-trial conferences may be set at the discretion of the Court upon the Court's own motion or upon request of a party.

#### **LR08-TR40-14**

#### **TRIAL SETTINGS**

Unless otherwise ordered by the Court at the pre-trial conference, when more than one case is set for trial on a given date, the case set second shall be required to stand for trial if counsel is given 48<sup>72</sup> hours notice, excluding Saturday and Sunday, that the case first set will not be heard, provided, however, that second settings on Monday shall stand trial if counsel are given notice that the case first set will not be heard by noon on the preceding ~~Thursday.~~Wednesday.

#### **LR08-TR16-15**

#### **EXHIBITS**

Exhibits not marked at pre-trial conference shall be presented to the reporter for marking prior to the beginning of the trial or during recesses to ensure that the trial is not delayed for the marking of exhibits.

After being marked for identification and offered in evidence, all exhibits and proposed exhibits shall be placed in the custody of the reporter who is responsible for their safekeeping, unless otherwise ordered by the trial judge.

~~Any model, diagram, exhibit or proposed exhibit shall be returned to the party offering it upon request to the reporter after the time for appeal has elapsed or the possibility of further appeal is exhausted, unless the court orders otherwise.~~

~~After a case has been decided and no appeal has been taken, or after all appeals are completed, if there has been no request for the return of such items within 90 days of final judgment, they may be disposed of by the reporter as the court may direct.~~

#### **LR08-TR00~~AR~~7-16**

#### **APPELLATE RECORD**

~~When an appeal is initiated by the filing of a praecipe for the record pursuant to Appellate Rule 2, and a transcript of all or any part of the evidence is sought for the record on appeal, counsel filing the praecipe shall deliver, contemporaneously and personally, a copy of the praecipe to the Court Reporter,~~

~~advise the Court Reporter of the deadline for preparation of the records, and then make arrangements to pay the Court Reporter for her preparation of the transcript.~~

### **EVIDENCE HANDLING, RETENTION AND DESTRUCTION**

In all cases, the Court shall proceed pursuant to these Rules unless the Court directs a longer retention period after motion by any party or on its own motion.

**A. CIVIL CASES INCLUDING ADOPTION, PATERNITY, AND JUVENILE PROCEEDINGS.** All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for two (2) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.

The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

**B. RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL CASES (Misdemeanors, Class C & D Felonies –including attempts).** Misdemeanor, Class D and C Felonies and Attempts. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence except as otherwise ordered by the Court, three (3) years after the case is dismissed, the defendant is found not guilty, or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending. The court reporter shall retain all mechanical/electronic records or tapes, shorthand, and stenographic notes as provided in Indiana Administrative Rule 7.

**C. RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL CASES (Class B & A Felonies, Murder –including attempts).** Class B and A Felonies and Murder and Attempts. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the court reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, twenty (20) years after the case is dismissed, the defendant found not guilty, or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the court reporter for twenty (20) years from termination of the appeal, retrial, or subsequent appeal and

termination, whichever is later, unless an action challenging the conviction or sentence, or post-conviction action, is pending.

The court reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Indiana Administrative Rule 7.

Courts should be encouraged to photograph as much evidence as possible and courts and parties reminded of the requirements of Appellate Rule 29(B).

**D. NON-DOCUMENTARY AND OVERSIZED EXHIBITS.** Non-documentary and oversized exhibits shall not be sent to the Appellate level Court, but shall remain in the custody of the trial court or Administrative Agency during the appeal. Such exhibits shall be briefly identified in the Transcript where they were admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits. Under no circumstances should drugs, currency, or other dangerous or valuable items be included in appellate records.

**E. NOTIFICATION AND DISPOSITION.** In all cases other than small claims, the Court shall provide actual notice, by mail to all attorneys of record and to parties if unrepresented by counsel, that the evidence will be destroyed by a date certain if not retrieved before that date. Counsel and parties have the duty to keep the Court informed of their current addresses and notice to the last current address shall be sufficient. Court reporters should maintain a log of retained evidence and scheduled disposition date and evidence should be held in a secure area. At the time of removal, the party receiving and removing the evidence shall give a detailed receipt to the court reporter, and the receipt will be made part of the court file.

In all cases, the Court, or the sheriff on the Court's order, should dispose of evidence that is not retaken after notice. The sheriff should be ordered to destroy evidence if its possession is illegal or if it has negligible value. The sheriff should auction evidence of some value with proceeds going to the county general fund. These Rules and their retention periods will take precedence over inconsistent language in statutes. I.C. 35-33-5-5(c)(2).

**F. BIOLOGICALLY CONTAMINATED EVIDENCE.** A party who offers biologically contaminated evidence must file a pretrial notice with the trial court and serve all the parties so that the Court can consider the issue and rule appropriately before trial. A party can show contaminated evidence or pass photographs of it to jurors, but no such evidence, however contained, shall be handled or passed to jurors or sent to the Jury Room unless specifically ordered by the Court.

**LR08-TR74-17**

**TRANSCRIPTS**

Persons requesting transcripts shall make a deposit with the clerk of Carroll County sufficient to cover the cost of the transcript at the time of the request unless other arrangements are made with the Court Reporter who is preparing the transcript.

**LR08-TR79-18**

**APPOINTMENT OF SPECIAL JUDGES**

**JUVENILE CASES.** When the appointment of a special judge in a juvenile case is necessary pursuant to Trial Rule 79(H), then a special judge shall be appointed from the following list of judges:

- 1) Linley E. ~~Peason~~Pearson, Judge of the Clinton Circuit Court
- 2) Robert W. Thacker, Judge of the White Circuit Court
- 3) Loretta H. Rush, Judge of the Tippecanoe Superior Court #3
- 4) Thomas K. Milligan, Judge of the Montgomery Circuit Court
- 5) Susan Orr Henderson, Judge of the Fountain Circuit Court
- 6) ~~Robert M. Hall, Judge of the Warren Circuit Court~~
- 7) Rex W. Kepner, Judge of the Benton Circuit Court

**ALL OTHER CIVIL CASES.** In all other civil cases, when the appointment of a special judge is necessary pursuant to Trial Rule 79(H), then a special judge shall be appointed from the following list of judges:<sup>1</sup>

*The Carroll Circuit Court*

- 1) Linley E. Pearson, Judge of the Clinton Circuit Court
- 2) Kathy R. Smith, Judge of the Clinton Superior Court
- 3) Robert W. Thacker, Judge of the White Circuit Court
- 4) Robert B. Mrzlack, Judge of the White Superior Court
- 5) ~~5) Jeffrey R. Smith, Judge of the Carroll Superior Court~~

*The Carroll Superior Court*

- 1) Linley E. Pearson, Judge of the Clinton Circuit Court
- 2) Kathy R. Smith, Judge of the Clinton Superior Court

<sup>1</sup> The judges listed are in Carroll County or counties contiguous to Carroll County in the 4th Administrative District and have consented to exchange services with the judges of Carroll County.

- 3) Robert W. Thacker, Judge of the White Circuit Court
- 4) Robert B. Mrzlack, Judge of the White Superior Court
- 5) Donald E. Currie, Judge of the Carroll Circuit Court

The assignment of judges shall be made in consecutive numerical order, i.e. the first judge listed will be assigned to the first case requiring a special judge; the second judge listed will be assigned the next case requiring a special judge; etc. The next assignment following the assignment of the last judge listed will be the first judge listed, and the selection process will then be repeated.

**LR08-AR00-19**

**JURISDICTION**

**Caseload Plan**

**A. CARROLL CIRCUIT COURT.** The Carroll Circuit Court shall have exclusive jurisdiction of the following matters:

- (1) Probate and guardianships;
- (2) Adoptions;
- (3) Class C or greater felonies and murder; and
- (4) Dissolutions and child custody.

**B. CARROLL SUPERIOR COURT.** The Carroll Superior Court shall have exclusive jurisdiction of the following matters:

- (1) Small Claims;
- (2) Infractions;
- (3) Juvenile matters other than adoption;
- (4) Misdemeanors; and
- (5) Class D felonies, provided, however, that the State of Indiana may file Class D felonies in the Carroll Circuit Court in those cases in which the Judge of the Carroll Superior Court would be required to disqualify himself because he represented the State of Indiana in the prosecution of an underlying offense or prior offenses used to enhance the sentence.-

**B. —~~C.~~ CONCURRENT JURISDICTION.** The courts shall have concurrent jurisdiction on all other matters.

**PREPARATION OF PLEADINGS, MOTIONS AND OTHER PAPERS**

~~———~~ **A. PRODUCTION.** ~~Pleadings,~~ **PAPER SIZE, LINE SPACING, AND MARGINS.** All pleadings, motions, and other papers shall be on white paper. Effective January 1, 1992, all pleadings, copies, motions and documents filed with the court, with the exception of exhibits and existing wills, shall be prepared on 8 1/2" x 11" size paper. Through December 31, 1991, such papers and records will be accepted on either 8 1/2" x 11" or 8 1/2" x 14" size paper with the exception of orders Court which shall be on 8 1/2" x 11" paper after July 1, 1991. The lines shall be double spaced except for quotations, which shall be indented and single spaced ~~are to be retained by the Court must:~~

~~———~~ **B. FORMS AND HANDWRITTEN PLEADINGS.** Printed or handwritten pleadings will be accepted only if neat and legible and not altered by strike overs or erasures. ~~———~~

~~———~~ **C. TITLES.** Titles on all pleadings shall delineate each topic included in the pleading, e.g. where a pleading contains an Answer, a Motion to Strike or Dismiss, or a Jury Request each shall be set forth in the title. ~~———~~

(1) use white, opaque paper (except those filed on green to conform to Administrative Rule 9);

(2) use 8 1/2 by 11-inch paper;

(3) line spacing will be at least one and one-half lines in the main body of the text.

Quotations may be single-spaced if they are indented. Headings and footnotes may be single-spaced;

(4) have one-inch margins on all four sides. Page numbers may be placed in the margins, but no other text may appear there;

(5) be printed only on the front side of the sheet; and

(6) include page numbers that are centered in the bottom margin of each page.

**B. FILE STAMP SPACE.** All pleadings shall allow sufficient blank space to the right of the case title to allow the clerk to file stamp the pleading without stamping over the caption or case number. The space shall be a minimum of three inches width and two and one-half inch height.

**C. TYPE STYLES.** All pleadings, motions, and other papers filed with the Court must be legibly printed in non-cursive or be typed using:

(1) a plain style font;

(2) 12-point font;

(3) black-colored font, and,

(4) contain italics or underlines for case names or where otherwise appropriate according to the Uniform System of Citation. Italics and underlines may also be used for emphasis.

**D. Binding.** All pleadings, motions, and other papers filed with the Court must

(1) be bound so that their pages appear in numerical order;

(2) be stapled or otherwise bound, as opposed to using a paperclip, in the upper-left hand corner.

## **LR08-AR00-21**

### **DOCUMENTS, FILES, AND DEPOSITIONS**

**A. REMOVAL OF ORIGINAL PLEADINGS, PAPERS, AND RECORDS.** No person shall withdraw any original pleading, paper, or record from the custody of the clerk or other officer of this court except upon the order of the judge of the court after giving proper receipt.

**B. OPENING OF DEPOSITIONS.** Unless otherwise ordered by the court, the clerk, at any time after a deposition is filed, shall open such deposition upon request of the judge, or a party or his attorney. The clerk shall first endorse on the back, at the time of opening, the name of the person at whose instance the deposition is opened and the date of opening.

## **LR08-AR15-22**

### **COURT REPORTERS**

~~Section One. Definitions.~~ **SECTION ONE. DEFINITIONS.** The following definitions shall apply under this local rule:

(1) A *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.

(3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

(4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

- (5) *Recording* means the electronic, mechanical, and stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- (9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday and Thursday.
- (10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts in Carroll County.
- (11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.
- (13) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

**~~Section Two. Salaries, Preparation of Transcripts, and Per Page Fees.~~**

**SECTION TWO. SALARIES, PREPARATION OF TRANSCRIPTS, AND FEES.**

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours.
- (2) The court reporter shall not prepare transcripts during regular work hours.
- (3) The maximum per page fee a court reporter may charge for the preparation of a county or state indigent transcript shall be ~~\$3.50~~\$4.00; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be ~~\$3,504.00~~ unless the transcript is required within 2 work days, then a maximum per page fee shall be \$5.00.

(5) A minimum fee of \$35.00 for total cost of a transcript may be charged for any transcript less than 10 pages.

(5) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(6) The court reporter **shall not** engage in private practice through the recording of a deposition and/or preparing of a deposition transcript.

(7) The court reporter **shall not** use court typewriters or word processing equipment for the preparation of private transcripts. A copy of transcripts may be made using the court's copying equipment provided that a copy of the transcript is deposited with the court.

### **LR08-AR15-23**

### **FILING BY FAX**

#### **A. FILINGS.** ~~Pleadings, motions,~~

The Judges of the Carroll Circuit Court and other papers may be sent to the Clerk of Carroll County by the Carroll Superior Court authorize electronic facsimile transmission filing and designate (765) 564-1829 for Circuit Court and (765) 564-9058 for Superior Court as the FAX numbers to receive such transmissions for filing in any case, provided:

———1.~~A.~~ Such matter does not exceed ten (10) pages, including the cover sheet;

———2.~~B.~~ Such matter does not require the payment of fees;

C. The sending party creates, at the time of transmission, a machine generated log for such transmission; and

———3.~~D.~~ The original document is sent or delivered to the Carroll County Clerk as soon as practicable and the transmission log ~~are~~ is maintained by the sending party for the duration of the litigation.-

———~~B. TIME OF FILING.~~ E. During normal, posted business hours of the Courts, the time of filing shall be the time ~~the duplicate document of the facsimile~~ the facsimile is received in the office of the Clerk of Carroll County. ~~Duplicate documents received at all other times shall be filed as of the next business day.~~ Circuit or Superior Courts. The original document shall be substituted for the facsimile upon receipt by the Clerk's office.

~~———— C. COVER SHEET. Any document sent to the Clerk of Carroll County by electronic facsimile transmission shall be accompanied by a cover sheet which states the title of the document, case number, number of pages, identity and voice telephone number of the sending party and instructions for filing. The cover sheet shall contain the signature of the attorney or party, pro se, authorizing the filing.~~

~~———— D. FAX NUMBER DESIGNATION. The fax number for filing is (317) 564-9058.~~

~~———— E. DEFINITIONS. For purposes of this rule, the following definitions shall apply:~~

~~———— 1. Cover Sheet means a description initial page that accompanies an electronic facsimile transmission;~~

~~———— 2. Electronic Facsimile Transmission, commonly referred to as "FAX," means a method of transmitting and receiving information in paper medium over telephone lines or other forms of electronic transmission;~~

~~———— 3. Original Document means the initially prepared written document or any counterpart intended to have the same effect by the creator; and~~

~~———— 4. Duplicate Document means a written counterpart of the original produced by the same impression as the original or from the same matrix or by digitized electronic transmission, readable by sight, which accurately reproduces the original.~~

F. If an original document is not received within ten (10) days, the facsimile shall be destroyed and the filing shall be null.

In all other respects, facsimile transmissions shall comply with Administrative Rule 12.

#### **LR08-AR00-24**

#### **LIBRARY BOOKS**

The books in the law library shall be in the custody of the Judges of the Carroll Circuit Court and the Carroll Superior Court. No person shall remove any book from the law library until he shall sign out the book with the court personnel. Any book removed courthouse without permission from the library shall not be retained more than ten consecutive days. Courts.

#### **LR08-FL-25**

#### **DOMESTIC RELATIONS**

**A. NOTICE TO PARENT IN DISSOLUTION.** In all uncontested dissolution matters involving custody and support of children or the determination of real property interest or both, the petitioner's attorney or the petitioner, if appearing pro se, shall give notice of the time and place of the ~~trial~~ hearing by subpoena, notice of hearing, or letter served upon the respondent in

accordance with Trial Rule 4 at least 7 days prior to the ~~trial~~hearing date, and file a copy of the notice with the court on or before the trial date.

**B. SUPPORT GUIDELINES.** All support determinations shall be made in accordance with the Indiana Child Support Guidelines, any deviation or exception shall be with good cause and only upon written findings entered by the Court.

**C. WORKSHEET - CHILD SUPPORT OBLIGATION.** A copy of the worksheet provided for in the Indiana Child Support Guidelines shall be submitted to the Court in each case in which the Court is asked to determine support, including cases in which agreed orders are submitted, and the worksheets shall be signed by both parties under penalties of perjury.

~~**D. SCHEDULE OF ASSETS AND LIABILITIES.** A schedule of assets and liabilities, together with copies of any and all inventories and appraisals, shall be submitted to the court three days prior to the date of trial.~~

**PARENTING CLASS REQUIREMENTS.** All parties in dissolution cases involving minor children shall attend a parenting class prior to the final hearing on the case. Said parenting class shall be “Dissolution Education Workshop” or an equivalent thereto.

**E. COURT COSTS.** If court costs are initially waived, they will be addressed at the Provisional Hearing and/or the Final Hearing.

**F. IN CAMERA INTERVIEWS.** If the Court has an *in camera* interview with child(ren), the parties and attorneys are prohibited from discussing that interview with the child afterward.

## **LR08-CR00-26**

### **INITIAL HEARING**

Any defendant held in custody shall be brought before the Court for initial hearing within 24 hours following his arrest, provided, however, if the arrest occurred on Friday afternoon, Saturday, Sunday, or a holiday, then the defendant shall be brought before the Court on the next business day. This rule shall not prohibit the release of any defendant on bond.

## **LR08-CR2.1-27**

### **WITHDRAWAL OF LEAVE TO WITHDRAW APPEARANCE**

~~———— In criminal cases, withdrawal of representation of a defendant may not be granted except upon hearing conducted in open court on record in the presence of the defendant unless another attorney has entered an appearance for the defendant. Withdrawal of appearance may be allowed without compliance~~

~~with the requirements of this rule if the reason for withdrawal is the inability to locate and communicate with the defendant. In such event a warrant shall issue for the arrest of the defendant.~~

**A. (SEE LR08-TR3.1-04)**

**B. COURT-APPOINTED COUNSEL.** Court-appointed counsel and public defenders shall be deemed “withdrawn” upon completion of sentencing or final disposition of cause.

**LR08-CR00-28**

**PRE-TRIAL ORDER AND OMNIBUS HEARING**

In all criminal cases set for trial by jury, a pre-trial order shall be entered and an omnibus hearing set. At the omnibus hearing the Court will determine if the parties contemplate the entry of a plea of guilty by the defendant, either with or without a plea agreement. If there is a plea of guilty, the plea will be entered following the Omnibus Hearing. The Court will not accept a plea agreement after the Omnibus Hearing without a showing of good cause why the plea agreement could not have been reached at or prior to the Omnibus Hearing.

If no plea of guilty is entered, the Court will determine whether any cases with an earlier filing date or cases which the Court has assigned a higher priority remain scheduled for the same trial date. If there are none, then the trial date will stand; otherwise, a new trial date will be set.

**LR08-CR00-29**

**BAILBOND SCHEDULE**

**A. AMOUNTS.** The following amounts shall be the amounts set for bail bonds unless otherwise ordered by the Judge of the Carroll Circuit Court or the Carroll Superior Court:

<u>Class of Offense</u>	<u>BailBond Amount</u>
<del>_____A.</del> Murder	<del>_____</del> none
<del>_____B.</del> Habitual Offender	<del>_____</del> (A, B, and C felonies)
\$50,000.00 additional	
<del>_____C.</del> Habitual Offender (D felony)	<del>_____</del> \$5,000.00 additional
Class A felony	<del>_____</del> \$100,000.00 surety plus \$500.00 cash
<del>_____D.</del> Class B felony	<del>_____</del> \$50,000.00 surety plus \$500.00 cash
<del>_____E.</del> Class C felony	<del>_____</del> \$10,000.00 surety plus \$500.00 cash

<del>_____ F.</del> Class D felony	<del>_____ \$5,000.00</del> <u>\$2,500.00 surety</u> <u>plus \$ 500.00</u>
<del>_____ G.</del> (alcohol/drug cases)	
Class D felony (non-alcohol/drug cases)	\$5,000.00 surety or \$500.00 cash
Class A misdemeanor	<del>_____ \$2</del> <u>\$3,000.00 surety or \$300.00 cash</u>
<del>_____ H.</del> Class B misdemeanor	<del>_____ \$1,000</del> <u>500.00 surety or</u> <u>\$150.00 cash</u>
<del>_____ I.</del> Class C misdemeanor	<del>_____ \$500</del> <u>\$1,000.00 surety or</u> <u>\$100.00 cash</u>

### **EXCEPTIONS TO SCHEDULE**

**B. MULTIPLE CHARGES.** If an arrest is made on more than one charge and there has been no prior judicial determination of bail, bail must be bond shall be posted as to each on the most serious charge. The amounts may be varied or determination stayed until court appearance by oral order of the Judge of either the Carroll Circuit or Superior Court, which oral order may be made by telephone only. If the listed bond amount is inappropriate under the circumstances, the Prosecuting Attorney shall bring such circumstances to the attention of the court by written or oral motion.

**C. DEADLY WEAPON.** For any offense involving the use of or attempted use of a deadly weapon or the infliction of serious bodily injury, the bail shall be increased by the sum of \$5,000 over the regular bond schedule.

**D. PERSONS ON PROBATION, PAROLE, BOND OR RELEASE ON OWN RECOGNIZANCE.** This bond schedule shall not be applicable in the case of a person who has been arrested for a crime while on probation, parole, bond or released on own recognizance for another offense. In such cases, the person may be detained for a maximum period of fifteen (15) calendar days, during which period the Prosecuting Attorney shall notify the appropriate parole or probation authority, and the Court shall determine the proper amount of bond, if any.

**E. ARRESTING OFFICER AFFIDAVIT TO DISALLOW BOND.** In the event that the arresting officer believes that the above schedule is not appropriate for a specific arrest based upon facts known to the officer or surrounding circumstances, the officer may complete an affidavit in a form substantially conforming to the form attached hereto (Form A) and provide it to the Sheriff's Department and the Sheriff is authorized to hold such arrestee until the sooner of forty-eight (48) hours (excluding weekends and holidays) or until further order of a Judge.

**F. RELEASE ON PROMISE TO APPEAR.** The bail schedule shall not apply to cases in which a person may be released upon written promise to appear or the posting of other appropriate security including, but not limited to, the following:

(1.) **Traffic Offenses.** Pursuant to I.C. 9-30-2-5, a resident of Indiana charged with a misdemeanor regulating use and operation of a motor vehicle other than one listed in I.C. 9-30-2-4 shall be released upon signing a promise to appear. The offenses excepted from this rule by I.C. 9-30-2-4 are as follows: (a) an offense causing or contributing to an accident involving injury or death to any person; (b) a violation of I.C. 9-30-5; and (c) failure to stop in the event of an accident causing death, personal injuries, or damage to property. Residents of states which are members of the nonresident violator agreement, I.C. 9-28-1 et seq shall be treated in the same manner as residents of Indiana. Residents of other states shall be required to provide security as provided in I.C. 9-30-2-5 or, failing to do so, they shall post bail in the amount provided above. Any person refusing to sign a promise to appear shall post bail.

(2.) **Conservation offenses.** Pursuant to I.C. 14-2-9-3, cases of violation of snowmobile and fish and game laws may be dealt with by summons rather than arrest.

**E.F. INTOXICATED PERSONS.** If any person is arrested or charged involving intoxication or use of drugs and in the opinion of the Sheriff or his department cannot safely be released because of such condition, the person shall be held until the Sheriff or his department determines that the person would not constitute a danger to himself or others. This provision is subject to the rule that all persons arrested who remain in jail shall be brought into court no later than the next day court is in session.

**F.G. ARREST ON CIVIL PROCESS.** This bail schedule applies only to arrest on criminal charges. On civil arrests (body attachments), the person shall be held without bail pending court appearance unless a bail amount is stated on the body attachment. Such bail is to be accepted in cash only and must be posted by the person arrested. The Court will consider the cash bail posted to be the property of the person arrested and subject to attachment.

**G. TEN PERCENTH, CASH BONDS.** In all ~~misdemeanor cases, unless specific order to the contrary is made by the court when setting bail, the person, if in which~~ a resident of the State of Indiana, ~~may post cash in the amount of 10% of the bail. The Court bond is posted, the court approved bond form must be used. If 10% is posted, the paid sum shall be returned to the defendant at the close of the case with the following exceptions:~~ Cash bonds may be used to pay fines, court costs, administrative probation fees, and other financial obligations of the defendant in any Carroll County cause. In addition, the bond may be used to reimburse the county for the cost of court appointed counsel.

Unless the Court orders otherwise, when cash bonds are released, they may be released to the person who posted the bond, not necessarily to the Defendant.

- ~~\_\_\_\_\_ (a) 10% administrative fee;~~
- ~~\_\_\_\_\_ (b) fine, fees, and costs;~~
- ~~\_\_\_\_\_ (c) restitution ordered by the Court; and~~
- ~~\_\_\_\_\_ (d) alcohol or drug program fees.~~

## **LR08-CR00-30**

### **AUTOMATIC CRIMINAL DISCOVERY RULE**

- ~~\_\_\_\_\_ A. DISCOVERY ON REQUEST. In all criminal cases reciprocal pre-trial discovery shall be available to both the State and the defendant, upon request of the opposite party, as follows:~~

#### **GENERAL PROVISIONS**

- ~~\_\_\_\_\_ C. STATE DISCLOSURE. The State shall produce, upon request, the following:~~

1. Upon the entry of an appearance by an attorney for a defendant or a defendant's pro se written appearance, the State shall disclose and furnish all relevant items and information under this Rule to the defendant within thirty (30) days from the date of the appearance, subject to Constitutional limitations and such other limitation as the court may specifically provide by separate order, and the defense shall disclose and furnish all relevant items and information under this rule to the State within thirty (30) days after the State's disclosure.

2. No written motion is required, except:

- a) To compel compliance under this Rule;
- b) For additional discovery not covered under this Rule;
- c) For a protective order seeking exemption from the provisions of this Rule; or
- d) For an extension of time to comply with this Rule.

3. Although each side has a right to full discovery under the terms of this Rule, each side has a corresponding duty to seek out the discovery. Failure to do so may result in the waiver of the right to full discovery under this Rule.

4. All discovery shall be completed on or before the omnibus date unless otherwise extended for good cause shown.

5. The party seeking disclosure or a protective order under this Rule shall include in the party's motion or request a statement showing that the attorney making the motion or request has made a reasonable effort to reach agreement with opposing counsel concerning the matter set forth in the motion or request. In addition, this statement shall recite the date, time and place of this effort to reach agreement, whether the effort was made in person or by telephone and the

names, of all parties and attorneys participating therein. The court may deny a discovery motion filed by a party who has failed to comply with the requirements of this subsection.

## **B. STATE DISCLOSURES**

1. The State shall disclose the following materials and information within its possession or control:

a) The names and last known addresses, ~~dates of birth, and social security numbers~~ of persons whom the State ~~may intends to~~ call as witnesses, ~~together along~~ with copies of their relevant written and/or recorded statements, ~~memoranda containing substantially verbatim reports of their oral statements and a list of memoranda reporting or summarizing their oral statements.~~ However, the State may refrain from providing a witness' address under this Rule if the State in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the State does not disclose the witness' address for the reason stated under this Rule, then the State shall make the witness available for deposition or interview by defense counsel upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the court may take such action as is appropriate;

2. ~~b)~~ Any written, oral, or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of witnesses to the making and ~~acknowledgement~~ acknowledgment of such statements--;

3. ~~c)~~ If applicable, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State's possession, which contain the testimony of persons whom the State intends to call as a witness at hearing or at trial. If such transcripts do not exist, the defendant may apply to the court for an order requiring their preparation;

d) Any reports or statements of experts, made in connection with the particular case, including ~~the~~ results of physical or mental examinations and of scientific tests, experiments or comparisons--;

4. ~~e)~~ Any books, papers, documents, photographs, or tangible objects ~~which the prosecuting attorney~~ that the State intends to use in the hearing, or trial or which were obtained from or belong to the accused--; and

~~5.f)~~ Any record of prior criminal convictions ~~which that~~ may be used for impeachment of the persons whom the State intends to call as witnesses at ~~the any~~ hearing or trial.-

~~6. The terms of any agreements made with co-defendants or other State's witnesses to secure their testimony.-~~

~~7. Any~~ 2. The State shall disclose to the defense any material or information within ~~the State's~~ possession or control ~~which that~~ tends to negate the guilt of the accused as to the offense(s) charged or would tend to reduce ~~his the~~ punishment for such offense(s).

~~————— D. DEFENDANT DISCLOSURE. The Defendant shall produce, upon request, the following:—~~

~~1. The person of the accused. Subject to Constitutional limitations the accused shall:~~

- ~~————— a. Appear in a line up.~~
- ~~————— b. Speak for identification by witnesses for an offense.—~~
- ~~————— c. Be fingerprinted.~~
- ~~————— d. Pose for photographs not involving reenactment of a scene.—~~
- ~~————— e. Try on articles of clothing.—~~
- ~~————— f. Permit the taking of samples of his blood, hair, or other materials of his body which involve no unreasonable intrusion.—~~
- ~~————— g. Provide a sample of his handwriting.—~~
- ~~————— h. Submit to a reasonable physical or medical inspection of his body.—~~

~~2. Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the accused and his counsel, who shall have a right to be present.—~~

~~3. Subject to Constitutional limitations defense counsel shall inform the State of any defenses which he intends to make at a hearing or trial and~~ 3. The State may perform these disclosure obligations in any manner mutually agreeable to the State and the defense. Compliance may include a notification to the defense that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.

### **C. DEFENDANT DISCLOSURES**

1. Defendant's counsel (or defendant where the defendant is proceeding pro se) shall furnish the State with the following material and information within his or her possession ~~and or~~ control:

~~————— a.) The names, and last known addresses, dates of birth, and social security numbers of persons he whom the defense intends to call as witnesses, excepting the defendant, together along with copies of their relevant written and/or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions of such witnesses known to him. However, the defense may refrain from~~

providing a witness' address under this Rule if the defense in good faith believes the disclosure of the witness' address may jeopardize the safety of the witness and the witness' immediate family. If the defense does not disclose the witness' address for the reason stated under this Rule, then the defense shall make the witness available for deposition or interview by the State upon reasonable notice. Should there be a dispute among the parties concerning the disclosure of a witness' address, counsel shall meet and make a reasonable effort to resolve this dispute before seeking intervention from the court. If an attorney for any party advises the court in writing that an opposing attorney has refused or delayed meeting and discussing the issue of witness address disclosure, the court may take such action as is appropriate.

b.) Any books, papers, documents, photographs, or tangible objects ~~he~~the defense intends to use as evidence or for impeachment at a at any trial or hearing or trial;

c. ~~Medical~~) Any medical, scientific, or expert witness evaluations, statements, reports, or testimony which may be used at a any trial or hearing or trial;

———E.d) Any defense, procedural or substantive, which the defendant intends to make at any hearing or trial; and

e) Any record of prior criminal convictions known to the defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.

2. After the formal charge has been filed, upon written motion by the State, the court may require the accused, among other things, to:

a) Appear in a line-up;

b) Speak for identification by witnesses to an offense;

c) Be fingerprinted;

d) Pose for photographs not involving re-enactment of a scene;

e) Try on articles of clothing;

f) Allow the taking of specimens of material from under his/her fingernails;

g) Allow the taking of samples of his/her blood, hair and other materials of his/her body that involve no unreasonable intrusion;

h) Provide a sample of his/her handwriting; and

i) Submit to a reasonable physical or mental examination.

Whenever the personal appearance of the accused is required for the foregoing purposes, reasonable notice of the time and place of such appearance shall be given by the State to the

accused and his/her counsel, who shall have the right to be present. Provision may be made for appearances for such purposes in an order admitting the accused to bail or providing for his/her release.

**D. ADDITIONS, LIMITATIONS, SANCTIONS AND PROTECTIVE ORDERS.**

~~1.~~ a) Discretionary Disclosures: Upon written request and a showing of materiality to, the ~~preparation of the defense, and if the request is reasonable, the Court~~court, in its discretion, may require additional disclosure ~~to defense counsel of relevant material and information not otherwise covered by this Rule.~~

~~2.~~ b) Denial of Disclosure: The ~~Court~~court may deny disclosure ~~authorized~~required by this ~~Rule if it finds~~rule upon a finding that there is ~~a~~ substantial risk to any person of physical harm, intimidation, bribery, economic reprisals; or unnecessary annoyance or embarrassment resulting from such disclosure which outweighs any usefulness of the disclosure ~~to counsel.~~

~~3.~~ c) Matters not subject to Disclosure:

i) Work Product: Disclosure hereunder shall not be required of legal research or of records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the State or members of its legal or investigative staffs, or of ~~the~~ defense counsel or his/her staff-;

~~4.~~ii) Informants: Disclosure of an informant's identity shall not be required where there is a paramount interest of non-disclosure and where a failure to disclose will not infringe upon the Constitutional rights of the accused. However, disclosure shall not be denied hereunder of the identity of witnesses to be produced at trial or hearing; and

iii) Any matters protected by law.

d) Protective Orders: ~~Either side~~the State or defense may apply for a protective order for non-disclosure of discovery required hereunder or any additional requested discovery.

~~5. If, subsequent to compliance, a party discovers additional material or information which is subject to disclosure he shall promptly notify the other party or his counsel of the existence of such additional material, and if the additional material or information is discovered during trial, the Court shall also be notified. 6. Willful violation by counsel of the Rule or an order issued pursuant thereto may subject counsel to appropriate sanctions by the Court.~~

**E. DUTY TO SUPPLEMENT RESPONSES.** The State and the defense are under a continuing duty to supplement the discovery disclosures required hereunder as required upon the

acquisition of additional information or materials otherwise required to be disclosed hereunder. Supplementation of disclosures shall be made within a reasonable time after the obligation to supplement arises.

**F. SANCTIONS UPON FAILURE TO COMPLY.** Failure of a party to comply with either the disclosure requirements or the time limits required by this Rule may result in the imposition of sanctions against the noncompliant party or attorney. These sanctions may include, but are not limited to, the exclusion of evidence at a trial or hearing and attorney fees.

### **LR08-CR13-31**

#### **SELECTION OF SPECIAL JUDGES**

When a change of judge is granted in a felony or misdemeanor case pursuant to Criminal Rule 12(B) or as the result of a recusal by the presiding judge, the case shall be assigned to one of the following judges:

- 1) Linley E. Pearson, Judge of the Clinton Circuit Court
- 2) Kathy R. Smith, Judge of the Clinton Superior Court
- 3) Robert W. Thacker, Judge of the White Circuit Court
- 4) Robert B. Mrzlack, Judge of the White Superior Court

The assignment of judges shall be made in consecutive numerical order, i.e. the first judge listed will be assigned to the first case requiring a special judge; the second judge listed will be assigned the next case requiring a special judge; etc. The next assignment following the assignment of the last judge listed will be the first judge listed, and the selection process will then be repeated.

(Note: The judges listed have consented to exchange services with the judges of the Carroll Circuit Court and the Carroll Superior Court.)

### **LR08-SC00-32**

#### **LANDLORD AND TENANT**

A. If the defendant has vacated the premises by the time of the hearing on possession, the plaintiff must present evidence of damage to the premises at that time. If the defendant has not vacated by the time of the hearing, the court will set another hearing date to consider the question of damages.

B. The Sheriff will assist a party prevailing on a claim for possession only to the extent of obtaining possession of the premises, and the party will be fully responsible for moving and storage of personal property.

C. It shall be the duty of any party obtaining an order for possession to contact the Sheriff and make arrangements for assistance in obtaining possession of the involved property.

#### **LR08-JR4-33**

#### **TWO TIER NOTICE AND SUMMONS**

The judges of Carroll County have selected a two tier notice and summons procedure for sending summons to prospective jurors as provided by Indiana Jury Rule 4(b).

#### **LR08-TR00-TR-34**

#### **PRO SE LITIGANT RESPONSIBILITIES**

Litigants who represent themselves should present their case in the proper way. The Court cannot treat pro se litigants differently than if a lawyer represents litigant. The court and staff cannot assist litigants in a way that would put the other side at a disadvantage. The Court cannot talk to litigants about the case without the other party being present. In some cases, the Court cannot act upon letters from litigants. Any letter filed with the Court should have the parties' names, the name of the court where the case is filed and the case number on it. The Court cannot teach litigants the rules of evidence or trial procedure because that would put the other side at a disadvantage. Litigants must follow the rules of evidence and trial procedure when your case is presented. Likewise, it is the litigant's responsibility to be certain that the other party has notice about all court hearings and is served with all papers or documents you file with the court. It is also your responsibility to make certain that any witnesses you want to testify are notified of your hearing.

It is the Court's job to consider the testimony and evidence presented during your hearing determine the facts of your case from that testimony and evidence and then apply the law to those facts. In all cases Courts may only consider testimony and evidence that is properly admitted according to the Indiana Rules of Evidence and the Indiana Rules of Trial Procedure. Further, the Court may only consider testimony and evidence that is relevant to the issues in the case.

**LR08-TR5-35**

**Alternative Service – Courthouse Box**

A. Any Carroll County attorney or any Carroll County law firm may, without charge, maintain an assigned Courthouse box in the offices of the Carroll Circuit Court and the Carroll Superior Court for receipt of notices, pleadings, process, orders, or other communications from the Carroll County Courts and the Clerk, and other attorneys or law firms which use this service. If a Carroll County attorney or law firm declines to consent to receiving service by Courthouse boxes from other attorneys or Courts, then they may not use the boxes to serve other attorneys.

B. **How Assigned.** Such Courthouse boxes shall be assigned only after such attorney or law firm has filed with the Circuit Court a Consent to Alternate Service (Form A). The Carroll Circuit Court shall be responsible for maintaining a file of consents and of revocations of consents to alternate service. The Carroll Circuit Court and the Carroll Superior Court shall be responsible for assigning boxes in the respective court.

C. **Effect of Consent.** Deposits made in any assigned box of notices, pleadings, process, orders, or other communications made shall be deemed to constitute and be accepted as service equivalent to service by first class mail under Trial Rule 6(E).

D. **Limitations on Firm Use.** Members of law firms must all agree to Courthouse box service. If one member of the firm declines to accept service by Courthouse box method, then no other members of that firm may accept service utilizing the Courthouse box.

E. **Revocation of Consent.** Consent to Alternate Service under this rule shall remain valid until a written revocation has been filed with the Carroll Circuit Court.

**FORM A**

**CONSENT TO ALTERNATE SERVICE – COURTHOUSE BOXES**

The undersigned, as an individual practitioner or for and on behalf of the law firm below, hereby consents to service of any notice, pleading, process, order or other communication by deposit of the same in an assigned Courthouse box by:

(a) Carroll County Courts;

(b) Carroll County Clerk;

(c) Other Attorneys and law firms which also consent to alternative service.

“Deposit” pursuant to this Consent shall constitute and be accepted as 1<sup>st</sup> class mail under Trial Rule 6(E).

The Consent shall remain valid until revoked in writing. The Consent or revocation will be effective seven days after filing with the Carroll Circuit Court. This Consent shall also apply

to any attorneys who become associates with the undersigned law firm after the date of this consent. The undersigned agree(s) to notify the Carroll County Courts and Carroll County Bar Association promptly of any changes in the list of attorneys designated in the Consent.

DATED:

\_\_\_\_\_  
(Individual Practitioner) (Firm Name)

By: \_\_\_\_\_ (Printed)

Managing or Senior Partner

List of Attorneys in Law Firm Hereby Consenting:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(File with the Carroll Circuit Court.)

FORM B

**AFFIDAVIT FOR HOLD FOR PRELIMINARY CHARGE**

The undersigned law enforcement officer makes this affidavit for the purpose of requesting that the sheriff hold the named arrestee, and that said arrestee shall not be allowed to post bond pursuant to the schedule set by the judges of this county and pursuant to the provisions of the CARROLL COUNTY COURTS BOND SCHEDULE that states as follows:

The bond schedule is not appropriate for:

Name \_\_\_\_\_

D.O.B. \_\_\_\_\_, Soc. Sec. No. XXX-XX-\_\_\_\_\_ in that said arrestee:

\_\_\_\_\_ is not a resident of this community and/or appears to have no significant ties to the community and appears to the undersigned to present a higher than normal risk to fail to return;  
or

\_\_\_\_\_ is believed to have committed an act which is in violation of a previous court order; or

\_\_\_\_\_ has made threats of violence to this officer or to another person which if carried out would warrant a substantially higher charge and bond, and it appears likely to the undersigned that the arrestee would carry out these threats if permitted to post the standard bond; or

\_\_\_\_\_ is suspected of additional or more serious charges which will require further investigation, and the bond for the offense for which the arrestee is now held is not likely to be sufficient to assure attendance at proceedings for the suspected offense; or

\_\_\_\_\_ other grounds not set forth above: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I affirm under penalties for perjury that the above is true to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Law Enforcement Agency

**CONFIDENTIAL -- DO NOT RELEASE WITHOUT COURT ORDER**